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SENT VIA EMAIL

February 25, 2019

RE: OFFICER INVOLVED SHOOTING
DECEMBER 31, 2018, WEBSTER COUNTY, IOWA

Colonel Fulk and Sheriff Anderson,

The Office of the Webster County Attorney has reviewed the December 31, 2018 officer involved shooting of Matthew Thomas Hurley in Webster County, Iowa. Items reviewed by the County Attorney's Office included investigative reports from the Iowa Division of Criminal Investigation (DCI), eye witness interviews, video and audio recordings, dispatch calls, crime scene photographs, crime scene renderings, physical evidence, reports from the Iowa DCI Criminalistics Laboratory and a Report of Autopsy, including photographs, prepared by the Office of the Iowa State Medical Examiner.

The relevant standards set forth in the Iowa Code for when the use of reasonable force, including deadly force, is justified are set forth below:

704.1 Reasonable force.

1. "Reasonable force" means that force and no more which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one's life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat.

704.2 Deadly force.

1. The term "deadly force" means any of the following:
a. Force used for the purpose of causing serious injury.

- b. Force which the actor knows or reasonably should know will create a strong probability that serious injury will result.
- c. The discharge of a firearm, other than a firearm loaded with less lethal munitions and discharged by a peace officer, corrections officer, or corrections official in the line of duty, in the direction of some person with the knowledge of the person's presence there, even though no intent to inflict serious physical injury can be shown.

704.3 Defense of self or another.

A person is justified in the use of reasonable force when the person reasonably believes that such force is necessary to defend oneself or another from any actual or imminent use of unlawful force.

After a full review of all of the information and evidence, the Webster County Attorney's Office has determined that Sgt. Aaron Smidt of the Iowa State Patrol and Deputy Chase Goodman of the Calhoun County Sheriff's Office were each justified in firing their weapon at Matthew Thomas Hurley on December 31, 2018. Such actions were justified due the fact that Sgt. Smidt and Deputy Goodman each reasonably believed that the use of deadly force was necessary to defend himself or another from the imminent use of illegal unlawful force on himself or another.

On December 31, 2018, at 10:17 p.m., the Webster County Communications Center dispatched officers the area of the Webster County Fairgrounds, 22770 Old Highway 169, in Webster County, Iowa in response to a 911 call from a citizen regarding a male in a gray Chevy Lumina, Iowa license plate GPN904. The Communications Center relayed to Webster County Sheriff's Deputies that the female caller reported the male in question was intoxicated and was causing problems at the residence and had assaulted one person. The caller requested that the male be removed from the property.

At 10:19 p.m., Sgt. Tony Walter of the Webster County Sheriff's Office reported to the Communications Center that he was responding to the call and was en route to the Webster County Fairgrounds.

At 10:25 p.m., Sgt. Walter reported that he had located the reported vehicle, IA license plate GPN904, at a stop sign at the intersection of Theatre Road and Highway 169. Sgt. Walter reported that he was going to observe the subject driving (to see if he could independently verify the report of an impaired driver).

At 10:27 p.m., Sgt. Walter reported that he was following the subject vehicle southbound on Highway 169, approaching Highway 20 and had activated his patrol vehicle's emergency lights to initiate a traffic stop. Sgt. Walter further reported that the subject vehicle was not speeding up but was failing to stop.

At 10:28 p.m., Sgt. Walter reported the subject vehicle was southbound on Highway 169 traveling at approximately 45 mph, and was still failing to stop in response to his emergency lights and audible siren.

At 10:29 p.m., Sgt. Walter's patrol video shows the subject vehicle had increased its speed to approximately 55 mph, southbound on Highway 169 nearing 250th Street.

At 10:31 p.m., Sgt. Walter reported that the subject vehicle was still eluding and was southbound on Highway 169 nearing 270th Street and the driver of the subject vehicle was "on his phone texting and swerving all over the road."

At 10:36 p.m., Sgt. Walter reported the subject vehicle was turning off of Highway 169 and was now heading westbound on 310th Street.

At 10:37 p.m., the Webster County Communications Center contacted the Calhoun County Communications Center to advise them of the pursuit of the subject vehicle in Webster County that was now heading in the direction of Calhoun County.

At 10:37 p.m., the subject vehicle turned northbound on Kansas Avenue.

At 10:39 p.m., the subject vehicle turned eastbound on 300th Street. Sgt. Walter requested that stop sticks be deployed at intersection of 300th Street and Highway 169 in an attempt to disable the subject vehicle. Sgt. Walter then dropped back to allow room for deployment of stop sticks at the designated intersection.

At 10:41 p.m., Sgt. Walter reported that the subject had fired a weapon from his vehicle, stating "Shots fired, shots fired, he's shooting back at our vehicles, shots fired."

At 10:42 p.m., Sgt. Walter was advised that the stop sticks deployment attempted by Chief Nicholas Dunbar of the Dayton Police Department was unsuccessful. The subject vehicle then turned southbound on Highway 169.

At 10:42 p.m., the subject vehicle turned eastbound on 310th Street.

At 10:43 p.m., Sgt. Walter reported the subject vehicle turned southbound on Madison Avenue.

At 10:45 p.m., the subject vehicle turned eastbound on 320th Street.

At 10:45 the Webster County Communications Center contacted the Calhoun County Communications Center to advise them of the status of the pursuit.

At 10:48 p.m., Sgt. Walter reported that the subject vehicle had turned southbound on Oak Avenue headed toward Highway 175.

At 10:52 p.m., Sgt. Aaron Smidt of the Iowa State Patrol and Deputy Chase Goodman of the Calhoun County Sheriff's Office arrived at the intersection of Oak Avenue and Highway 175 in separate vehicles to set up a road block and took up tactical positions near the rear of their respective vehicles on either side of the road as it intersects Highway 175.

At 10:52 p.m., seconds prior to the subject vehicle arriving at the intersection of Oak Avenue and Highway 175, Sgt. Walter reported that the subject had fired a weapon again from his vehicle, stating "Shots fired, out the window, more shots fired, more shots fired out the window."

Video and audio recordings from the patrol vehicles of both Sgt. Smidt and Deputy Goodman captured the sound of multiple rounds being fired from the subject vehicle as it advanced toward their positions near the intersection with Highway 175.

Immediately thereafter, Sgt. Smidt and Deputy Goodman each fired multiple rounds at the subject vehicle as it approached and met their positions. The subject vehicle passed through the space between their respective vehicles, crossed Highway 175 and veered east off of the roadway and into a field, where it came to rest.

Once the subject vehicle came to rest, it was not clear to officers on the scene whether the subject had been struck by any of the shots fired, if he was attempting to escape or if he was still in the vehicle. Given the suspect's prior firing of a weapon during the pursuit, the scene was approached with extreme caution to ensure officer safety.

After additional officers arrived to secure the scene and assist and it was determined to be safe to approach the vehicle, officers discovered the subject deceased in the vehicle with an apparent bullet wound to the head. The subject was discovered to have a PMC 9mm Luger pistol in his hand with his finger still on the trigger. The subject was identified as Matthew Thomas Hurley.

Analysis by the DCI Criminalistics laboratory of the firearms and ammunition used by Matthew Hurley, Sgt. Smidt and Deputy Goodman concluded that the fatal round was consistent with the ammunition used and firearm fired by Sgt. Smidt and was not consistent with the other two firearms and types of ammunition.

Given the established facts of this case, the Webster County Attorney's Office has concluded that on December 31, 2018, Sgt. Aaron Smidt of the Iowa State Patrol and Deputy Chase Goodman of the Calhoun County Sheriff's Office each used "reasonable force" in responding to the use of deadly force by Matthew Thomas Hurley. Both Sgt. Smidt and Deputy Goodman used a level of force that a reasonable person in like circumstances would have judged necessary to prevent an injury or loss. Further, both Sgt. Smidt's and Deputy Goodman's use of deadly force was reasonable, in that it was reasonable for each of them to believe that such use of force was necessary to avoid injury or risk to his life or safety or the life or safety of another. Further, the use of deadly force by both Sgt. Smidt and Deputy Goodman was reasonable in that it was reasonable for each to believe that such force was necessary to resist a like force or threat, in accordance with Iowa Code §704.1.

Sgt. Aaron Smidt and Deputy Chase Goodman were each justified in the use of reasonable force, including deadly force, in that each reasonably believed that such force was necessary to defend himself or another from an actual or imminent use of unlawful force by Matthew Thomas Hurley, in accordance with Iowa Code §704.3.



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